



MARK DAVID SHIRIAN P.C.
ATTORNEYS AT LAW

MEMO ENDORSED

MARK DAVID SHIRIAN P.C.
228 EAST 45TH STREET, SUITE 1700B
NEW YORK, NY 10017
DIRECT: (516) 417-0201
FACSIMILE: (212) 898-0163
EMAIL: MSHIRIAN@SHIRIANPC.COM

November 14, 2019

VIA ECF

Honorable Valerie Caproni
United States District Judge
United States District Court
Southern District of New York
40 Foley Square, Room 240
New York, New York 10007

USDC SDNY
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Re: *Ramirez v. Michael Cetta Inc., d/b/a Sparks Steak House*
Case 1:19-cv-00986 (VEC)

Dear Judge Caproni:

I am a member of Mark David Shirian P.C., attorney for the plaintiff, in the above-referenced action. I write to respectfully request a further extension of the fact discovery deadline from November 20, 2019 to December 20, 2019 and to adjourn the pretrial conference presently scheduled for November 22, 2019. Defendant opposes the application and has requested Plaintiff include its position (provided by Defendant's counsel and set forth below), in this letter.

Plaintiff's Position

On or about September 30, 2019, the Defendant filed a request for an extension of the fact discovery deadline and an adjournment of the pretrial conference from October 25, 2019, which was granted and the fact discovery deadline is presently November 20, 2019. A pretrial conference is presently scheduled for November 22, 2019 and the parties were directed to submit a joint preconference letter on November 14, 2019.

To date, the parties exchanged further written discovery and the Plaintiff appeared for her deposition on November 11, 2019. The deposition of Defendant as well as the deposition of non-party witness Miguel Flores is presently scheduled for November 15, 2019. The reason for the request for an extension is that I am a solo practitioner and Plaintiff would like to take the deposition of Sayed (last name unknown), a current employee of Defendant and possibly other current employees of Defendant. Plaintiff will be severely prejudiced if an extension of time is not granted to conduct depositions of individuals who may have pertinent information about Plaintiff's allegations.

This is Plaintiff's first request for an extension of time, however Defendant's counsel does not consent to Plaintiff's request.

In the alternative, in the event that this request is not granted, I write to respectfully request a four- day extension of time for the parties to submit a joint preconference letter, which is presently due on November 14, 2019.

Defendant's Position

Defendant objects to Plaintiff's request to extend the discovery deadline.

The Court's September 30, 2019 Order extended the discovery deadline to November 20, 2019. The Court stated: "[t]he Court warns the parties that it is highly unlikely it will grant another extension absent extraordinary circumstances." *See* Dkt. No. 19 (September 30, 2019 Order). The mere fact that Plaintiff's counsel is a "solo practitioner" (*see* "Plaintiff's Position" *supra*) hardly constitutes extraordinary circumstances warranting another extension of the discovery deadline.

Notably, Plaintiff's counsel did not advise Defendant's counsel of his intent to depose any non-party witness until November 11, 2019 -- ten days prior to the discovery deadline, and has not served any notice or subpoena for any such non-party witness testimony.

Accordingly, Defendant respectfully requests that Plaintiff's application to extend the discovery deadline be denied.

Defendant does not oppose Plaintiff's request to a four-day extension of time to submit a joint preconference letter.

Thank you for your consideration of this request.

Respectfully submitted,

s/ Mark D. Shirian

Mark D. Shirian

Application DENIED. The parties may submit their joint preconference letter no later than **November 19, 2019**.

SO ORDERED.

 11/14/2019

HON. VALERIE CAPRONI
UNITED STATES DISTRICT JUDGE